

EXHIBIT 4

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Chapter 1. Introduction

§ 1:1. General introduction to and basic policies of ERISA

The ERISA[FN1] was signed into law on Labor Day, September 2, 1974. Upon the signing of the Act, President Gerald R. Ford described the bill as “massive” and stated:

[T]his legislation will probably give more benefits and rights and success in the area of labor management than almost anything in the history of this country....

This legislation will alleviate the fears and the anxiety of people who are in the production lines or in the mines or elsewhere in that they now know that their investment in private pension funds will be better protected, they have a vested right, they are certain, obviously, of better management of those funds. It certainly will give to those 30-plus million American workers a greater degree of certainty as they face retirement in the future....

Under this law, ... the men and women of our labor force will have much more clearly defined rights to pension funds and greater assurances that retirement dollars will be there when they are needed.... It is certainly appropriate that this law be signed on Labor Day, since this act marks a brighter future for almost all the men and women of our labor force.[FN2]

Many of the policies underlying the statute and the findings of Congress appear on the face of the statute.[FN3] The statement of policy includes a specific recognition that the growth of employee benefit plans has been rapid and substantial and has had a significant impact on interstate commerce, in that it has had a direct effect on the well-being and security of millions of employees and their dependents. In light of these profound effects, Congress declared, owing to the lack of employee information and adequate safeguards, that

disclosure be made and safeguards be provided with respect to the establishment, operation and administration of such plans; ... that despite the enormous growth in such plans, many employees with long years of employment are losing anticipated retirement benefits owing to the lack of vesting provisions in such plans; that owing to the inadequacy of current minimum standards, the soundness and stability of plans with respect to adequate funds to pay promised benefits may be endangered; that owing to the termination of plans before requisite funds have been accumulated, employees and their beneficiaries have been deprived of anticipated benefits; and that it is therefore desirable in the interests of employees and their beneficiaries, for the protection of the revenue of the United States and to provide for the free flow of commerce, that minimum standards be provided assuring the equitable character of such plans and their financial soundness.[FN4]

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Because of plan growth and its resulting profound effect on interstate commerce as set forth in the previous section, Congress found in § 2(b) of the Act[FN5] that the following specific measures were required:

[D]isclosure and reporting to participants and beneficiaries of financial and other information with respect thereto, ... establishing standards of conduct, responsibility and obligation for fiduciaries of employee benefit plans, and ... providing for appropriate remedies, sanctions and ready access to the Federal courts.

Finally, and again motivated by the same concerns, congressional policy concludes that it intends to improve the equitable character and financial soundness of plans by requiring them to “vest the accrued benefits of employees with significant periods of service, to meet minimum standards of funding and ... [to require] plan termination insurance.”[FN6]

The House Education and Labor Committee Report defined ERISA's purposes as follows:

(1) to establish minimum standards of fiduciary conduct for Trustees, Administrators and others dealing with retirement plans, to provide for their enforcement through civil and criminal sanctions, to require adequate public disclosure of the plans' administrative and financial affairs, and (2) to improve the equitable character and soundness of private pension plans by requiring them to: (a) vest the accrued benefits of employees with significant periods of service with an employer, (b) meet minimum standards of funding and (c) guarantee the adequacy of the plan's assets against the risk of plan termination prior to the completion of the normal funding cycle by insuring the unfunded portion of the benefits promised.[FN7]

The United States Supreme Court has specifically noted the following with respect to these statutory statements of policy:

On September 2, 1974, following almost a decade of studying the Nation's private pension plans, Congress enacted the Employee Retirement Income Security Act of 1974 As a predicate for this comprehensive and reticulated statute, Congress made detailed findings which recited, in part, “that the continued well-being and security of millions of employees and their dependents are directly affected by these plans; [and] that owing to the termination of plans before requisite funds have been accumulated, employees and their beneficiaries have been deprived of anticipated benefits.”[FN8]

The federal courts have consistently confirmed these policies, i.e., that in enacting this chapter of ERISA, Congress intended that a body of federal substantive law would be developed by the courts to deal with issues involving rights and obligations under private welfare and pension plans, including a guarantee that vested benefits would be received as long as the conditions of eligibility have been met, that sufficient funds would be accumulated in such plans, and that workers would be guaranteed honest administration of such plans.[FN9] The courts have also noted that among the principal purposes of the statute was to insure that employees and their beneficiaries would not be deprived of anticipated retirement benefits by the termination of pension plans before sufficient funds have been accumulated in the plan so as to guarantee that employees will actually receive the vested benefits they have been promised upon retirement, as long as they have fulfilled the conditions necessary to obtain a vested benefit.[FN10]

Notwithstanding these broad pronouncements of policies and President Gerald Ford's remarks on enactment, it is crucial to highlight that ERISA is not designed to be completely comprehensive or all-inclusive; instead, it

prescribes only minimum standards. Also, although much of the emphasis in the statute is on pension plans and retirement benefits, ERISA, it will be shown, regulates nonpension benefit programs although to a lesser degree.

[FN1] 29 U.S.C.A. §§ 1001 et seq.

[FN2] Remarks by President Gerald Ford on the Signing of HR 2, (Pub. L. No. 93-406, 88 Stat 829), The Employee Retirement Income Security Act And Related White House And Labor Department Documents (Sept 2, 1974), reprinted in 1974 Pens Rep (BNA) No 1, at R-1 (Sept 16, 1974).

[FN3] ERISA § 2, 29 U.S.C.A. § 1001.

[FN4] ERISA § 2(a), 29 U.S.C.A. § 1001(a).

[FN5] ERISA § 2(b), 29 U.S.C.A. § 1001(b).

[FN6] ERISA § 2(c), 29 U.S.C.A. § 1001(c).

[FN7] H.R. Rep. No. 533, 93d Cong., 2d Sess. (1973), reprinted in 1974 U.S. Code Cong. & Admin. News 4639, 4655-4656.

[FN8] ERISA § 2(a), 29 U.S.C.A. § 1001(a); Nachman Corp. v. Pension Benefit Guar. Corp., 446 U.S. 359, 100 S. Ct. 3051, 65 L. Ed. 2d 1137 (1980) reh'g denied, 448 U.S. 908 (1980).

[FN9] Amato v. Bernard, 618 F.2d 559 (9th Cir. 1980); Pompano v. Michael Schiavone & Sons, 680 F.2d 911 (2d Cir.), cert. denied, 459 U.S. 1039 (1982).

[FN10] PBGC v. R.A. Gray & Co., 467 U.S. 717, 104 S. Ct. 2709, 81 L. Ed. 2d 601 (1984).

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